



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMsh11080555

[REDACTED],  
Complainant,

vs.

SUPER 8 MOTEL,  
Respondent.

### **NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On August 31, 2011 [REDACTED] ("Complainant") filed a complaint with the Commission against Super 8 Motel ("Respondent") alleging sexual harassment in violation of [REDACTED] the Indiana Civil Rights Law (IC 22-9, et seq.) Accordingly, the Indiana Civil Rights Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to sexual harassment resulting in constructive discharge. In order to prevail, Complainant must show that: (1) she experienced unwelcome sexual comments or actions in the workplace; (2) the comments/actions were severe and pervasive; (3) she made it known that the comments were unwelcome and (4) Respondent failed to take corrective action to address the hostile work environment resulting in her resignation.

Complainant alleges that shortly after she began employment with Respondent her male supervisor, [REDACTED] made sexual advances toward her when he grabbed her hips and pressed his crotch against her buttocks. Further, Complainant alleges that a day after this incident the supervisor also tried to kiss her; however, she rejected his advances and left the room. The evidence shows that there were no witnesses available to corroborate Complainant's allegations. However, testimony of a former employee indicates that this male supervisor and his son, [REDACTED], Manager, made sexual comments about the female housekeepers on a daily basis. While Respondent denies that the alleged harasser was an employee of Respondent, witness testimony corroborates that the alleged harasser was on the job site at least three times per week.

The evidence fails to show that Respondent took any action to stop the harassment. The manager claimed that Complainant did report to him that his father tried to kiss her and that he asked his



father about this, and his father denied it happened. Further, testimony from the manager also shows that when Complainant reported the harassment, he told her that he did not believe her, which was prior to him questioning his father. Respondent also failed to show that it has an anti-harassment policy in place. The evidence shows that there is reason to believe that Complainant was subjected to a sexually hostile work environment that was severe and pervasive enough to make a reasonable person resign from their position. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

June 25, 2012  
Date

---

Joshua S. Brewster, Esq.,  
Deputy Director  
Indiana Civil Rights Commission